

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**JOHN AIKENS** : CIVIL ACTION  
:  
**v.** : NO. 13-cv-7010  
:  
**DANIEL BURNS, et al.** :

**MEMORANDUM**

**SCHMEHL, J.** /s/ JLS

**August 2, 2021**

On June 22, 2021, the Attorney General's Office of Pennsylvania filed a status report in this habeas proceeding. According to the Report, "Petitioner was convicted of first-degree murder and related offenses in state court. He was sentenced to a mandatory term of life in prison for the murder. He subsequently filed a habeas petition in federal court, seeking a new sentence under *Miller v. Alabama*, 567 U.S. 460 (2012). He attached a handwritten birth certificate suggesting that he was 15 years old at the time of the murder. Petitioner raised the same claim in state court in a PCRA petition (Court of Common Pleas Docket No. CP-51-CR-0406531-1993). The Commonwealth filed a motion to dismiss the petition and attached a birth certificate obtained from the state Department of Health, which suggested that petitioner was 19 years old at the time of the murder. The PCRA court credited the Commonwealth's birth certificate and dismissed the petition. The Superior Court affirmed the dismissal. Petitioner did not seek discretionary review in the Pennsylvania Supreme Court. This Court subsequently appointed counsel to represent petitioner (ECF No. 8). But counsel requested leave to withdraw at petitioner's request (ECF No. 14). This Court granted counsel's request and ordered petitioner to file 'any pro se motion for further proceedings' by May 24, 2021 (ECF No. 15, 1). Respondents have not received such a motion." ECF 21.

Nor does the docket to date reflect any such motion has been filed. It is obvious that Petitioner has no **valid** proof that he was 15 years old at the time of the murder. Accordingly, the petition will be dismissed with prejudice.